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SUBJECT: KOSOVO: 2010 INVESTMENT CLIMATE STATEMENT

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1. KOSOVO: 2010 Investment Climate Statement

1A. Openness to Foreign Investment

The Government of Kosovo (GOK) and the Ministry of Trade and Industry (MTI) actively promote foreign investment in Kosovo. In January 2001, UNMIK adopted Regulation 2001/3 on Foreign Investment in Kosovo, and the Kosovo Assembly passed the Foreign Investment Law in November 2005, promulgated by UNMIK in April 2006. Under this law, foreign firms operating in Kosovo are granted the same privileges as domestic businesses, with the exception that foreign investors may not hold more than 49 percent ownership in businesses producing or selling military products (Reg. No. 2001/3, Section 6).

The Law on Weapons passed the Assembly and was promulgated by the President in October 2009, allowing local security firms to carry weapons in limited circumstances. These instances are restricted to bodyguard services and cash (or equivalent) transporters, but allow local security firms to compete with international ones for the first time. New business registration with MTI's official registry has steadily increased, indicating some local enterprise development. Since 1999, over 95,000 private businesses have been registered, although MTI states that over half of these businesses are technically inactive. All business license applications are processed by the Agency for Business Registration in Pristina and normally issued within three business days, making Kosovo one of the easiest places in the region to set-up a business.

While the basic legislation of a market-oriented economy is in place, determining property ownership remains a challenge. These legal uncertainties, in addition to weak law implementation and poor contract enforcement, continue to hinder economic growth and investment. All commercial laws are available to the public in English on the Kosovo Assembly's Website at www.assembly-kosova.org/?cid=2,191 and on the UNMIK website at: www.unmikonline.org/regulations.

1B. Conversion and Transfer Policies

Section 9 of UNMIK Regulation 1999/24 and Article 9 of the Foreign Investment Law guarantees unrestricted use of income from foreign investment, after taxes and other liabilities. This includes transfers to other foreign markets or foreign currency conversions. All currency conversions and transfers are processed in accordance

with EU banking procedures. Conversions are made at the market rate of exchange. Foreign investors are permitted to open bank accounts in any currency.

1C. Expropriation and Compensation

Section 7 of UNMIK Regulation 1999/24 and Article 8 of the Foreign Investment Law protect foreign investments from expropriation, and guarantee due process and timely compensation payment for valid claims. In April 2005, UNMIK approved an eminent domain clause in order to prevent lawsuits deriving from property expropriations and sales occurring as part of the privatization process. This clause only applies to cases of Socially Owned Enterprise (SOE) privatization.

1D. Dispute Settlement

Section 17 of UNMIK Regulation 1999/24 and Chapter 4 of the Foreign Investment Law assign jurisdiction for business dispute resolution to Kosovo courts. However, foreign investors are free to agree upon arbitration or another, alternative dispute resolution mechanism. The results of arbitration are enforceable by local courts. The Foreign Investment Law stipulates investors select from the following standards for investment dispute arbitration:

1. the International Center for Settlement of Investment Disputes (ICSID) Convention, if both the foreign investor's country of citizenship and Kosovo are parties to said convention at the time of the request for arbitration;

2. the ICSID Additional Facility Rules, if the jurisdictional

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OECD Convention and the FCPA, including translations of the statute into several languages, is available at the Department of Commerce Office of the Chief Counsel for International Commerce Website:

www.ogc.doc.gov/trans_anti_bribery.html.

-Transparency International (TI) publishes an annual Corruption Perceptions Index (CPI). The CPI measures the perceived level of public-sector corruption in 180 countries and territories around the world. The CPI is available at:

www.transparency.org/policy_research/. TI also publishes an annual 'Global Corruption Report' which provides a systematic evaluation of the state of corruption around the world. It includes an in-depth analysis of a focal theme, a series of country reports that document major corruption related events and developments from all continents and an overview of the latest research findings on anti-corruption diagnostics and tools. See www.transparency.org/publications/gcr.

-The World Bank Institute publishes Worldwide Governance Indicators (WGI). These indicators assess six dimensions of governance in 212 countries, including Voice and Accountability, Political Stability and Absence of Violence, Government Effectiveness, Regulatory Quality, Rule of Law and Control of Corruption. See http://info.worldbank.org/governance/wgi/sc_country.asp. The World Bank Business Environment and Enterprise Performance Surveys may also be of interest and are available at: <http://go.worldbank.org/RQQXYJ6210>.

-The World Economic Forum publishes the 'Global Enabling Trade Report', which presents the rankings of the Enabling Trade Index, and includes an assessment of the transparency of border administration (focused on bribe payments and corruption) and a separate segment on corruption and the regulatory environment. See www.weforum.org.

Additional country information related to corruption can be found in the U.S. State Department's annual 'Human Rights Report' available at www.state.gov/g/drl/rls/hrrpt/.

Global Integrity, a nonprofit organization, publishes its annual 'Global Integrity Report', which provides indicators for 92 countries with respect to governance and anti-corruption. The report highlights the strengths and weaknesses of national level anti-corruption systems. The report is available at: <http://report.globalintegrity.org/>.

L. Bilateral Investment Agreements

Albania was the first country to sign an FTA with Kosovo in 2003, followed by Macedonia in 2005. The Kosovo-Macedonia FTA stipulates that Kosovo imports have complete, duty-free access to the Macedonian market but in reality, Macedonia still imposes duties at the border, particularly on agricultural imports. In 2006 Kosovo signed FTAs with Croatia and Bosnia-Herzegovina, and became a signatory to the Central European Free Trade Area (CEFTA) and EU Common Aviation Area. CEFTA came into force in July 2007 and by September 2007 all signatories ratified the agreement, including Serbia. However, as with the FTA with Macedonia, CEFTA signatories continue to charge various fees for Kosovar goods. Kosovo is also a member of the Athens Process on Energy for the Southeastern Europe Energy Community Treaty. This is a significant step for Kosovo toward achieving increased regional cooperation and securing alternate sources of energy.

M. OPIC and Other Investment Insurance Programs

The U.S. Overseas Private Investment Corporation (OPIC) has been involved in Kosovo since 2000, providing financing, political risk insurance and other investment vehicles to American investors. In June 2009, OPIC signed an investment agreement with Kosovo. With OPIC assistance, American investors are currently involved with projects in the energy and real estate development sectors.

N. Labor

UNMIK-approved Regulation 2001/27, the Essential Labor Law, remains

in force while Kosovo drafts a new comprehensive labor law. The Ministry of Labor and Social Welfare has announced in their 2010 legislative strategy their intention to prepare a draft Labor Law and send it to the Assembly by late March 2010. The law requires employers to observe all applicable employee protections, including

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a 40-hour full-time work week, payment of overtime, adhering to occupational health and safety standards, respecting annual leave benefits and ensuring 90 days of maternity leave. The labor law calls for a minimum wage but does not set an amount. The Ministry of Labor and Social Welfare has created a compliance office that has the authority to visit places of employment to assess employer adherence to labor law requirements. Labor disputes are adjudicated in local courts.

10. Foreign-Trade Zones / Free Ports

The Kosovo Customs and Excise Code is business-friendly, compliant with EU and World Customs Organization standards, and addresses topics such as bonded warehouses, inward and outward processing, transit of goods, and free trade zones, with the aim of facilitating trade and stimulating export growth. In addition to imported goods, some Kosovo-produced goods from designated industries can also be stored in bonded warehouses, when applicable legislation dictates these goods meet export criteria. Foreign firms are permitted to import production inputs without paying taxes or customs duties for the manufacture of export goods.

The Customs Code permits the establishment of free zones for manufacturing and export purposes, but none have been established yet.

11. Foreign Direct Investment Statistics

Kosovo does not currently have a formalized system for collecting foreign direct investment data. However, the Investment Promotion Agency of Kosovo estimates over 2,800 foreign companies are currently operating in Kosovo. Top sector investments for foreign businesses include trading (51%), service industries (20%), manufacturing industries (13%) and construction (12%).

12. Web Resources

The Overseas Private Investment Corporation: www.opic.gov
U.S. Department of Commerce: www.commerce.gov
U.S. Trade and Development Agency: www.ustda.gov
U.S. Embassy Pristina: <http://pristina.usembassy.gov>
Investment Promotion Agency of Kosovo: <http://www.invest-ks.org>
Economic Initiative for Kosovo: www.eciks.org/english